

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSE ALFREDO NUNO,
Defendant.

Case No. 2:15-cr-0211-RFB

ORDER

Before the Court IS Defendant’s Motion to Vacate. ECF No. 54. In his motion, Defendant argues that his conviction should be vacated because his crime of conviction, aiding and abetting carjacking, does not qualify as a crime of violence in light of United States v. Davis, 139 S.Ct. 2319 (2019). The Court rejects Defendant’s argument and denies the motion on this ground. The Court finds that the Defendant’s argument is and has been foreclosed by controlling Ninth Circuit precedent in Young v. United States, 22 F.4th 1115 (9th Cir. 2022).

Defendant also argues in his motion that his conviction with respect being a felon in possession of firearm should also be vacated pursuant to Rehaif v. United States, 139 S. Ct. 2191 (2019). The Court rejects Defendant's argument on this point as well and also denies the motion on this ground. The Court finds that the Defendant's argument is and has been foreclosed by Greer v. United States, 141 S. Ct. 2090 (2021). The Court agrees with the government's arguments as to the controlling application of Greer to this case, and it incorporates that reasoning by reference.

For the reasons stated.

IT IS HEREBY ORDERED that Defendant's Motion to Vacate [ECF No. 54] is DENIED.

1 **IT IS FURTHER ORDERED** that Motion for Motion for Leave [ECF No. 60] is
2 GRANTED.

3 **DATED:** May 23, 2023.
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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE